

for The
Western District of North Carolina

In Re:

James William Smr2

Debtors

Longdon M. Cooper, Trustee

Bankruptcy No: 14-40488

(Chapter 7)

FILED

U.S. Bankruptcy Court
of NC

OCT 13 2015

Steven T. Salata, Clerk
Charlotte Division

In Bankruptcy for James William Smr2

Plaintiff

vs

James William Smr2

Defendant

This is an Answer to the Complaint Attached. Objection to Fact No's: 10, 11, 13, 16, 17, 18, 19, 20.

Fact 10

THE APPRAISAL OF THE "RING" WAS DONE BY RETAINER AND IS FOR INSURANCE PURPOSES (REPLACEMENT VALUE) NOT FOR RESALE PURPOSES. THERE IS A HUGE DIFFERENCE WHICH TRUSTEE IS AWARE OF. VALUATION SHOULD BE STATED BY RESALE APPRAISAL NOT INSURANCE APPRAISAL. RESALE VALUATION IS APPROX 1/3 AND 1/2 OF PURCHASE PRICE DEPENDING ON THE ACTUAL PRICE ITSELF ALONG WITH CERTAIN AUTHENTICITY DOCUMENTS.

Fact 11

DEFITOR HAD SEVERAL CONVERSATIONS VIA CELL PHONE WITH TIM HENDERSON (DEFITOR'S ATTORNEY COUNSEL) ON THE MORNING OF SEPTEMBER 18, 2014 ABOUT COUNSEL'S RETAINER. COUNSEL TOLD DEFITOR RETAINER NEEDED TO BE PAID IN CASE BEFORE THE END OF BUSINESS. DEFITOR INFORMED COUNSEL DEFITOR DID NOT HAVE CASH FOR RETAINER. COUNSEL THEN INFORMED DEFITOR "GIVING" RETAINER TO DEFITOR. DEFITOR TOLD COUNSEL THAT WIFE (AT THE TIME) WOULD BE WILWING TO "GIFT" RETAINER BY SALE OF HER PLATINUM, BROWN, FANCY COLORED DIAMOND RING. COUNSEL TOLD DEFITOR THAT WOULD BE A NON-ISSUE UNLESS DEFITOR HAD TO FILE CHAPTER 7 WHICH WOULD THEN BRING HIS RETAINER INTO QUESTION.

Sale of the "Ring" DID NOT HAPPEN UNTIL MID-OCTOBER. MONIES WERE ADVANCED TO PAY COUNSEL'S RETAINER WHICH IN TURN WAS PAID BACK ONCE "RING" WAS SOLD. THERE WAS A CONSIDERABLE DELAY OF THE SALE DUE TO DISCREPANCIES WITH "RING" VALUES.

Exhibit 5

DEBTOR MADE CHAPTER 7 COUNSEL AWARE OF DISPOSITIONS OF "RING" AS WELL AS DEBTOR'S PERSONAL PROPERTY (JEWELRY, MISC). DEBTOR WAS HONEST UPFRONT AND WORKING WITH BOTH OF HIS COUNSEL. JIM HENDERSON DREW DEBTOR TO SHOW STUFFS TO DEMONSTRATE "GOOD FAITH" TO CREDITORS THAT DEBTOR WAS NOT TRYING TO HIDE OR AVOID BANKRUPTCY PROBLEMS. DEBTOR SHOWED STUFFS EVEN THOUGH THEY WERE INCOMPLETE. HENDERSON TOLD DEBTOR THAT STUFFS WOULD BE CONSIDERED BEFORE SUBMISSIONS WITH EXHIBIT FIVE.

Exhibit 6

DEBTOR DISCLOSED PROPERTY AS ADVISED BY COUNSEL. GENERAL DESCRIPTION IN EXHIBIT FIVE. NO NEED TO LIST ITEM BY ITEM.

Exhibit 7

DEBTOR'S TAX RETURN AND BANK STATEMENTS SUPER DEBTOR'S FINANCIAL INFORMATION.

Exhibit 8

DEBTOR FRIENDS AND RELATIVES ADVISED BY COUNSEL. DEBTOR HAS YET TO RECEIVE ANY SERVICES FROM COUNSEL. DEBTOR HAS REQUESTED COUNSEL TO HOLD THE DEBTOR'S DOCUMENTS, WHICH NOT VICTOR DEBTOR AT THIS TIME, ALONG WITH THE DEBTOR'S CASE, AND WHICH NOT PERTAIN TO DEBTOR'S LETTERS. DEBTOR'S FRIENDS FORWARDED COUNSEL'S RECEIPT WHICH VERIFIED RECEIPT OF LETTERS.

Exhibit 9

DEBTOR SIGNIFICANT PAYMENT MARCH 5, 2015. ALLEGEDLY ALLEGATIONS CONTAINED IN SCHEDULE B OF BUDGET WHICH RELATED TO THE BIAS BASIS ENTERED IN COURT.

First Claim

DEBTOR NEVER HIDDEN, CONCEALED, OR DESTROYED ANY EVIDENCE. ENDANGERING DEFENDANT WAS AT HIS RESIDENCE WHICH TRUSTEE AND ATTORNEY INSPECTED.

Second Claim

DEBTOR BY NO STAY FAILED TO KEEP PESTER RECORDS. ALL INFORMATION WAS LOST. DEBTOR WAS TAKEN FROM GUARDIAN ON OCTOBER 22, 2014 TO HIS SURPRISE. THIS WAS DURING THE INSPECTION/ GATHERING PHASES.

Third Claim

DEBTOR EXPLAINED DISPOSITION OF "RINGS" TO TRUSTEE GUARDIAN.

Fourth Claim

DEBTOR DISPOSED THE PROPERTY TO TRUSTEE. TRUSTEE PROCEEDED TO TAKE AND SELL DEBTOR'S PROPERTY AS WELL AS WIFE'S PROPERTY, WHICH PROPERTY IS NOT SUBJECT TO DEBTOR'S CHAPTER 7 PROCESSIONS. WHICH IS ALSO UNDER A "NOTICE OF FORECLOSURE".

Fifth Claim

DEBTOR TELL BETTY HENDERSON AND TRUSTEE ABOUT DISPOSITION OF "RINGS". TO CLARIFY, "RINGS" WERE SOLD McDOUGAL AT TOWER FURNITURE FOR ABOUT \$200.00 WAS USED TO PAY BANK GUARANTEE WHICH WAS ALREADY TO PAY GUARANTEE COMPANY. ALSO THE \$200.00 RETAINED TO THE CASH THAT TRUSTEE HAS WITH DEBTOR'S PROPERTY, DOES SHE HAVE VALUE OF "RINGS" BETTY HENDERSON.

WHEREFORE, THE DEFENDANT AS DEFENDANT REQUESTS THAT THE COURT FIND:

1. THAT THE COURT DENY THE PLAINTIFF'S REQUEST DUE TO THE FACT THAT TRUSTEE AND DEBTOR'S ATTORNEY CONSPIRED AND PURPOSERLY MISLEADING THE COURT TO THEIR OWN BENEFIT ENHANCED BY THE DEFENDANT BANK RETAINED AT THE HICKORY COUNTY TELL.
2. THAT THE COURT ORDER TRUSTEE AND ATTORNEY CONSPIRED TO FRAUD.
3. THAT THE COURT ORDER TRUSTEE TO TURN OVER ALL PROPERTY BELONGS TO AKA.
4. THAT THE COURT DENY TRUSTEE TO TURN OVER PROPERTY FROM SUES OR WIFE'S

Property which will be sold without bid.

This the 1st Day of October 2015


Terry Whalen, Inc.
PO#190257
PO Box 34429
Columbia, SC 29234



UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA

In the matter of:
James William Staz) Case No. 14-40458
Debtor(s))
Langdon M. Cooper) Chapter 7
Plaintiff(s))
v.)
James William Staz) Adv. Proc. No. 15-04014
Defendant(s))

SUMMONS IN AN ADVERSARY PROCEEDING

YOU ARE SUMMONED and required to submit a motion or answer to the complaint which is attached to this summons to the clerk of the bankruptcy court within 30 days after the date of issuance of this summons, except that the United States and its offices and agencies shall submit a motion or answer to the complaint within 35 days.

Steven T. Salata, Clerk
U.S. BANKRUPTCY COURT
401 West Trade Street
Charlotte, NC 28202

At the same time, you must also serve a copy of the motion or answer upon the plaintiff's attorney:

Langdon M. Cooper
Mullen Holland & Cooper, P. A.
P. O. Box 488
Gastonia, NC 28053-0488

If you make a motion, your time to answer is governed by Fed. R. Bankr. P. 7012.

IF YOU FAIL TO RESPOND TO THIS SUMMONS, YOUR FAILURE WILL BE DEEMED TO BE YOUR CONSENT TO ENTRY OF A JUDGMENT BY THE BANKRUPTCY COURT AND JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.

Date of Issuance: 9/11/2015

s/ Steven T. Salata
Clerk of the Bankruptcy Court

Electronically filed and signed

CERTIFICATION OF SERVICE

I, _____ (name), certify that service of this summons and a copy of the complaint was made on _____ (date) by:

Mail service: Regular, first class United States mail, postage fully pre-paid, addressed to:

Personal service: By leaving the process with defendant or with an officer or agent of defendant at:

Residence service: By leaving the process with the following adult at:

Publication: The defendant was served as follows: (Describe briefly)

State Law: The defendant was served pursuant to the laws of the State of _____, as follows: (Describe briefly)

If service was made by personal service, by residence service, or pursuant to state law, I further certify that I am, and at all times during the service of process was, not less than 18 years of age and not a party to the matter concerning which service of process was made.

Under penalty of perjury, I declare that the foregoing is true and correct.

Date _____

Signature _____

Print Name :

Business Address :

UNITED STATES BANKRUPTCY COURT
FOR THE
WESTERN DISTRICT OF NORTH CAROLINA

IN RE:

JAMES WILLIAM STAZ

Debtor

LANGDON M. COOPER, Trustee
In Bankruptcy for James William Staz

Plaintiff,

vs.

JAMES WILLIAM STAZ

Defendant

Bankruptcy No. 14-40458
(Chapter 7)

Adversary Proceeding No.

COMPLAINT
Objecting to Debtor's Discharge and
Seeking Turnover of Property

The Plaintiff, Langdon M. Cooper (the "Plaintiff"), as Trustee in Bankruptcy for the party identified above as Debtor (the "Debtor") by and through counsel, complaining of the Defendant, alleges and says that:

PARTIES AND JURISDICTION

1. The Plaintiff is a resident of Gaston County, North Carolina and is the duly qualified and presently serving Trustee in Bankruptcy for the Debtor.

2. A voluntary petition under Chapter 7 of the United States Bankruptcy Code (the "Code") was filed by the Debtor on 18 September 2014 in the United States Bankruptcy Court for the Western District of North Carolina (the "Court"). Langdon M. Cooper was subsequently appointed as the Chapter 7 Trustee.

3. The Defendant, James William Staz, is upon information and belief incarcerated and being detained in a North Carolina prison, who in any event resided in the State of North Carolina at all times relevant to the transactions described in this Complaint.

4. This is an adversary proceeding under Fed. R. Bankr. P. 7001(4) related to the above-referenced bankruptcy case now pending before this Court, and in this adversary proceeding, the Plaintiff seeks to have the Court deny the Debtor's discharge

under all applicable provisions of the Code, including 11 U.S.C. § 727. Also, in this adversary proceeding, the Plaintiff seeks turnover of property of the Debtor's bankruptcy estate under Section 542 of the Code.

5. Generally, this Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1334 because this is a proceeding arising under Title 11 (11 U.S.C. § 101 et seq., hereinafter "Title 11") or arising in or related to a case under Title 11, because it involves the enforcement of rights granted by the United States Bankruptcy Code, and because of the Order entered by the Judges of the United States District Court for the Western District of North Carolina on 30 July 1984 (the "Referral Order") pursuant to the Bankruptcy Amendments and Federal Judgeship Act of 1984 referring to this Court all core proceedings arising under Title 11, or arising in a case under Title 11, and all proceedings that are not core proceedings but that are otherwise related to a case under Title 11.

6. Venue for this adversary proceeding is properly with this Court pursuant to 28 U.S.C. § 1409.

7. Specifically, this Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. § 1334, 28 U.S.C. § 157(b)(2), and the Referral Order, because this is a core proceeding as defined in 28 U.S.C. § 157(b)(2) in that it concerns claims under 11 U.S.C. §§ 542 and 727. Pursuant to Fed. R. Bankr. P. 7008, the Plaintiff consents to the entry of a dispositive judgment in this adversary proceeding by this Bankruptcy Court.

FACTS

8. The Debtor's bankruptcy petition was filed on 18 September 2014.

9. The Trustee has until 10 September 2015 to file a complaint objecting to the Debtor's discharge. *See* Docket no. 87.

10. Post-petition the Trustee discovered that the Debtor owned an 18kt. Platinum Michael Beaudry Ring with colored diamonds valued by Diamonds Direct at \$88,950 (the "Ring").

11. The Debtor failed to schedule his ownership of the Ring in his bankruptcy petition.

12. On or about 18 September 2014, the day he filed his bankruptcy petition, the Debtor attempted to sell the Ring to Jewelry Buyers.Com, Inc. in San Diego, CA 92101, but the Debtor declined the price offered to him.

13. On or about 22 September 2014 the prospective purchaser, Jewelry Buyers.Com, Inc., returned the Ring to the Debtor.

14. The Trustee has possession of a copy of the signed receipt by the Debtor acknowledging the delivery back to him of the Ring on 22 September 2014 by Federal Express.

15. The Trustee has on multiple occasions demanded that the Debtor turnover the Ring to the Trustee, and the Debtor has both failed to turnover the Ring to the Trustee or the Debtor's counsel, nor has the Debtor disclosed the location and/or disposition of the Ring.

16. The Debtor failed to disclose in his bankruptcy petition all personal property he owned, some of which the Trustee discovered and sold.

17. The Debtor failed to maintain a complete record of his financial condition.

18. The Trustee has no records of the Debtor's financial condition.

19. On 18 November 2014 a Superseding Bill of Indictment was issued by the Grand Jury in the United States District Court in the Western District of North Carolina, case no. 3:14CR199-RJC which, *inter alia*, alleged the Debtor stole approximately \$11 million from the clients of the business operated by the Debtor and his father, now deceased.

20. The Debtor pleaded guilty to the allegations contained in the Superseding Bill of Indictment.

FIRST CLAIM

21. All previous allegations are hereby incorporated by reference.

22. The Debtor, with intent to hinder, delay or defraud his creditors or an officer of the estate charged with custody of property has transferred, removed, destroyed, mutilated or concealed property of the debtor and/or the estate, to-wit, the Ring and other personal property.

23. By virtue of the foregoing, the discharge of the Debtor should be denied pursuant to 11 U.S.C. § 727(a)(2) and/or (4).

SECOND CLAIM

24. All previous allegations are hereby incorporated by reference.

25. The Debtor has concealed, mutilated, falsified, or failed to keep or preserve any recorded information, including books, documents, records and papers, from which the Debtor's financial condition or business transactions might be ascertained, and such act or

failure to act was not justified under all of the circumstances of the case, to-wit he has failed to provide all documentation requested by the Trustee.

26. By virtue of the foregoing the discharge of the Debtor should be denied pursuant to 11 U.S.C. § 727(a)(3).

THIRD CLAIM

27. All previous allegations are hereby incorporated by reference.

28. The Debtor has failed to explain satisfactorily, before determination of denial of discharge under this paragraph, any loss of assets or deficiency of assets to meet the Debtor's liabilities, to-wit any secreting, loss or disposition of the Ring.

29. By virtue of the foregoing the Debtor's discharge should be denied pursuant to 11 U.S.C. § 727(a)(5).

FOURTH CLAIM

30. All previous allegations are hereby incorporated by reference.

31. The Debtor knowingly and fraudulently in or in connection with the case made a false oath or account; to-wit, failing to disclose in his petition the Ring and multiple items of personal property discovered by the Trustee.

32. By virtue of the foregoing the Debtor's discharge should be denied pursuant to 11 U.S.C. § 727(a)(4).

FIFTH CLAIM

33. All previous allegations are hereby incorporated by reference.

34. The Trustee demanded turnover of the Ring, which was not disclosed in the petition. To date the Debtor has failed to provide documents disclosing the location or disposition of the Ring, nor has he paid the Trustee the value of the Ring.

35. The Plaintiff is entitled to a turnover and recovery of the Property from the Defendant/Debtor, all pursuant to Section 542 of the Code.

WHEREFORE, the Trustee as Plaintiff respectfully prays the Court for the following relief:

1. That the Court enter an Order denying the discharge of the Debtor under the applicable provisions of the Code, including 11 U.S.C. § 727.
2. That the Court order the turnover of the Ring or its value by the Debtor to the Trustee pursuant to Section 542 of the Code.
3. That the Trustee have and recover his costs of this action, including attorneys fees.
4. For such other and further relief as the Court deems just and proper.

This the 9th day of September, 2015.

/s/ Langdon M. Cooper

Langdon M. Cooper
N.C. State Bar No. 936

s/ Jennifer A. Youngs

Jennifer A. Youngs
N.C. State Bar No. 23925

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ADVERSARY PROCEEDING COVER SHEET
(Instructions on Reverse)

ADVERSARY PROCEEDING NUMBER
(Court Use Only)

PLAINTIFFS

Langdon M. Cooper, Trustee in Bankruptcy for James William Staz

DEFENDANTS

James William Staz

ATTORNEYS (Firm Name, Address, and Telephone No.)

Langdon M. Cooper 704-864-6751
Mullen Holland & Cooper P.A., PO Box 488, Gastonia, NC 28053-0488

ATTORNEYS (If Known)

PARTY (Check One Box Only)

Debtor U.S. Trustee/Bankruptcy Admin
 Creditor Other
 Trustee

PARTY (Check One Box Only)

Debtor U.S. Trustee/Bankruptcy Admin
 Creditor Other
 Trustee

CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)

The Plaintiff seeks to have the Court deny the Debtor's discharge under all applicable provisions of the Code, including 11 U.S.C. § 727. Also, in this adversary proceeding, the Plaintiff seeks turnover of property of the Debtor's bankruptcy estate under Section 542 of the Code.

NATURE OF SUIT

(Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)

FRBP 7001(1) – Recovery of Money/Property

11-Recovery of money/property - §542 turnover of property
 12-Recovery of money/property - §547 preference
 13-Recovery of money/property - §548 fraudulent transfer
 14-Recovery of money/property - other

FRBP 7001(6) – Dischargeability (continued)

61-Dischargeability - §523(a)(5), domestic support
 68-Dischargeability - §523(a)(6), willful and malicious injury
 63-Dischargeability - §523(a)(8), student loan
 64-Dischargeability - §523(a)(15), divorce or separation obligation
 (other than domestic support)
 65-Dischargeability - other

FRBP 7001(2) – Validity, Priority or Extent of Lien

21-Validity, priority or extent of lien or other interest in property

FRBP 7001(7) – Injunctive Relief

71-Injunctive relief – imposition of stay
 72-Injunctive relief – other

FRBP 7001(3) – Approval of Sale of Property

31-Approval of sale of property of estate and of a co-owner - §363(h)

FRBP 7001(8) Subordination of Claim or Interest

81-Subordination of claim or interest

FRBP 7001(4) – Objection/Revocation of Discharge

41-Objection / revocation of discharge - §727(c),(d),(e)

FRBP 7001(9) Declaratory Judgment

91-Declaratory judgment

FRBP 7001(5) – Revocation of Confirmation

51-Revocation of confirmation

FRBP 7001(10) Determination of Removed Action

01-Determination of removed claim or cause

FRBP 7001(6) – Dischargeability

66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims
 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud

Other

SS-SIPA Case – 15 U.S.C. §§78aaa *et seq.*
 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

(continued next column)

Check if this case involves a substantive issue of state law

Check if this is asserted to be a class action under FRCP 23

Check if a jury trial is demanded in complaint

Demand \$

Other Relief Sought

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR James William Staz	BANKRUPTCY CASE NO. 14-40458	
DISTRICT IN WHICH CASE IS PENDING Western	DIVISION OFFICE Shelby	NAME OF JUDGE Whitley
PLAINTIFF	RELATED ADVERSARY PROCEEDING (IF ANY)	
	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF)		
DATE 09/09/2015	PRINT NAME OF ATTORNEY (OR PLAINTIFF)	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also complete and file Form 104, the Adversary Proceeding Cover Sheet. CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.